

**REMARKS**

Claims 1 and 7 have been amended.

The Examiner has rejected applicant's claims 1, 4, 5, 7 and 9 under 35 USC 102(b) as anticipated by the Noriyuki reference (JP 2000-069356). The Examiner has also rejected applicant's claims 2 and 6 under 35 USC 103(a) based on the latter reference taken with the Kubo patent (US Patent No. 7,030,911). Additionally, the Examiner has rejected applicant's claim 3 also under 35 USC 103(a) based on the Noriyuki reference taken with the Numata, et al. patent (US patent No. 6,654,062). With respect to applicant's claims, as amended, these rejections are respectfully traversed.

Applicant's independent claims 1 and 7 have been amended to better define applicant's invention. More particularly, independent claim 1 recites an image sensing apparatus comprising: a first exposure level calculation device which performs photometry for image sensing to calculate a first exposure level upon an image sensing preparation instruction by an image sensing preparation instruction member; a second exposure level calculation device which calculates a second exposure level of an image signal output after image sensing; an exposure error calculation device which calculates an exposure error between the first exposure level calculated by said first exposure level calculation device and the second exposure level calculated by said second exposure level calculation device; a determination device which determines whether or not to correct the exposure error in accordance with whether or not said image sensing apparatus, which is in an image sensing operation, satisfies a predetermined condition when said image sensing apparatus is in an auto exposure control mode; and an exposure error correction device which performs a correction operation of the exposure error by using the exposure error calculated by said exposure error calculation device,

when it is determined by said determination device to correct the exposure error. Independent claim 7 has been similarly amended.

As can be appreciated from the above, in applicant's claimed invention, a first exposure level calculation device performs photometry for image sensing to calculate a first exposure level upon an image sensing preparation instruction by an image sensing preparation instruction member and a second exposure level calculation device calculates a second exposure level of an image signal output after image sensing. An exposure error calculation device then calculates an exposure error between the first exposure level calculated by said first exposure level calculation device and the second exposure level calculated by said second exposure level calculation device. Thereafter, a determination device then determines whether or not to correct the exposure error in accordance with whether or not said image sensing apparatus, which is in an image sensing operation, satisfies a predetermined condition when said image sensing apparatus is in an auto exposure control mode (see, S108 in FIG. 2). An exposure error correction device then performs a correction operation of the exposure error by using the exposure error calculated by said exposure error calculation device, when it is determined by said determination device to correct the exposure error.

In other words, in applicant's claimed invention, there is a situation in which the exposure correction is not performed even though the exposure error is calculated when the image sensing apparatus is in the auto exposure control mode. This is because an appropriate result cannot be obtained by the exposure error correction in some cases even though the image sensing apparatus is in the auto exposure control mode. Accordingly, in applicant's claimed invention, exposure correction depends on whether or not to correct the exposure error in accordance with whether or not the image sensing apparatus, which is in an image sensing

operation, satisfies a predetermined condition when the image sensing apparatus is in an auto exposure control mode.

Such a construction is not taught or suggested by the cited art of record. More particularly, the Noriyuki reference discloses that an exposure error between an exposure level of a sensed image and a correct exposure level is calculated and the calculated exposure error is corrected. Specifically, in the Noriyuki reference, a ratio  $\alpha$  ( $=K/AveC$ ), which is a ratio of an exposure level of a sensed image calculated by an exposure level calculation unit (202) and a correct exposure level, is calculated and whether or not to correct the exposure error is determined based on the calculated ratio  $\alpha$ . (paragraphs [0049-0055]). In other words, in the Noriyuki reference, whether or not to correct the exposure error is determined in accordance with the sensed image, not in accordance with whether or not the image sensing apparatus, which is in an image sensing operation, satisfies a predetermined condition. Thus, the Examiner's argument that the Noriyuki reference teaches that exposure error correction is determined based whether or not the image sensing apparatus satisfies a predetermined condition is incorrect and not supported by the reference teachings.

Accordingly, applicant's amended claims 1 and 7, and their respective dependent claims, in reciting, in one form or another, "a determination device then determines whether or not to correct the exposure error in accordance with whether or not said image sensing apparatus, which is in an image sensing operation, satisfies a predetermined condition when said image sensing apparatus is in an auto exposure control mode", in combination with the other claimed features, patentably distinguishes over the Noriyuki reference.

The cited Kubo patent also fails to teach or suggest the above features of applicant's amended claims 1 and 7. In the Kubo patent, as shown in FIG. 6, after exposure (step 5),

photometric, colorimetric and distance measurements are set (step 9) and AE, WB, Gain and AF are set (step 11). A determination is thereafter made as to whether a switch S1 is on or not (step 17). If it is not on, these processes are repeated starting with exposure (step 5). If the switch S1 is on, AWB and AF are locked (step 19) and an exposure control value is set (step 21). Then, a determination is made as to whether a second switch S2 is on. If not and a predetermined time period has expired, the process returns to exposure (step 5). If not, and a predetermined time has not expired, the process returns to AWB and AF locked (step 19). If the switch S2 is on, the process goes to real exposure (step 27) and eventual recording (step 35).

Thus, in the Kubo patent, if it is determined that the user does not intend to record an image, i.e., if the switch S2 is not turned on during a predetermined time period after the switch S1 is turned on, the system returns to performing an exposure (step 5) once more (see lines 48-56, column 7). However, this is not a teaching or suggestion of a “determination device then determines whether or not to correct the exposure error in accordance with whether or not said image sensing apparatus, which is in an image sensing operation, satisfies a predetermined condition when said image sensing apparatus is in an auto exposure control mode”. Instead, it is a determination of whether or not a real exposure is to be taken and recorded.

Moreover, in the Kubo patent, if the switch S2 is on, the same operation is performed regardless of the condition of an image sensing apparatus which is in an image sensing operation. Therefore, this operation is also not a teaching or suggestion of “a determination device then determines whether or not to correct the exposure error in accordance with whether or not said image sensing apparatus, which is in an image sensing operation, satisfies a predetermined condition when said image sensing apparatus is in an auto exposure control

mode".

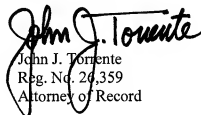
The Kubo patent thus has similar failings as the Noriyuki reference with respect to teaching the above features of applicant's amended claims 1 and 7. Such claims, and their respective depend claims, thus patentably distinguish over the combination of the Noriyuki reference and Kubo patent. The Numata, et al. patent fails to add anything to the Noriyuki reference and the Kubo patent to change this conclusion.

In view of the above, it is submitted that applicant's claims, as amended, patentably distinguish over the cited art of record. Accordingly, reconsideration of the claims is respectfully requested.

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Respectfully submitted,

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